

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

IN THE MATTER OF:	)	
	)	
DaimlerChrysler Corporation	)	Docket No. <b>CAA-5- 2000 -0 09</b>
Toledo, Ohio,	)	
	)	Proceeding to Assess an
	)	Administrative Penalty
	)	under Section 113(d) of the
Respondent.	)	Clean Air Act,
	)	42 U.S.C. § 7413(d)
	)	

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Consent Agreement and Final Order

1. Complainant, the Director of the Air and Radiation Division, United States Environmental Protection Agency, Region 5 (U.S. EPA), brought this administrative action seeking a civil penalty under Section 113(d) of the Clean Air Act (the Act), 42 U.S.C. § 7413(d), by filing an Administrative Complaint (Complaint) against Respondent DaimlerChrysler Corporation (DaimlerChrysler).
2. The Complaint alleges that DaimlerChrysler violated Section 165(a) of the Act and 40 C.F.R. § 52.21(i). Specifically, the Complaint alleges that DaimlerChrysler began actual construction of a subject facility prior to the effective date of a final PSD permit, in violation of Section 165(a)(1) of the Act and 40 C.F.R. § 52.21(i).

3. U.S. EPA and DaimlerChrysler agreed to settle this matter before the Complaint was filed. The parties contemplate that this Consent Agreement and Final Order (CAFO) will be filed contemporaneously with the Complaint. Therefore, DaimlerChrysler will not file an Answer and will not request a hearing pursuant to Section 113(d)(2) of the Act, 42 U.S.C. § 7413(d)(2).
4. The parties agreed that this matter should be settled without a hearing or further proceedings, upon the terms set forth in this CAFO.

#### Stipulations

5. DaimlerChrysler admits the jurisdictional allegations set forth in the Complaint and that the Complaint sets forth a claim upon which relief may be granted. However, DaimlerChrysler neither admits nor denies the allegations of fact or the assertions of law set forth in the Complaint, and does not admit that it is liable for the violations alleged in the Complaint.
6. DaimlerChrysler waives its right to contest the allegations in the Complaint, and waives its right appeal under Section 113(d) of the Act, 42 U.S.C. § 7413(d).

7. DaimlerChrysler certifies that it is in full compliance with Section 165(a) of the Act and 40 C.F.R. § 52.21.
8. The parties consent to the terms of this CAFO.

**Civil Penalty**

9. Consideration was given to a related matter in which Chrysler Corporation spent approximately \$125,000 to purchase wetlands and conservation easements near its facility. Chrysler purchased and agreed to preserve these wetlands in order to settle a citizen suit involving the same PSD permit at issue in this case. In consideration of this factor and other information provided by DaimlerChrysler, U.S. EPA agrees to mitigate the proposed penalty of \$87,000.00 to \$12,000.00.
10. DaimlerChrysler must pay the \$12,000.00 civil penalty by cashier's or certified check payable to the "Treasurer, United States of America," within 30 days after the effective date of this CAFO.
11. DaimlerChrysler must send the check to:

U.S. Environmental Protection Agency  
Region 5  
P.O. Box 70753  
Chicago, Illinois 60673

12. A transmittal letter, indicating Respondent's name, complete address, the case docket number and the billing document number must accompany the payment. DaimlerChrysler must write the case docket number and the billing document number on the face of the check. DaimlerChrysler must send copies of the check and transmittal letter to:

Attn: Regional Hearing Clerk, (R-19J)  
U.S. Environmental Protection Agency, Region 5  
77 West Jackson Blvd.  
Chicago, Illinois 60604-3590

Margaret Sieffert  
Air Enforcement and Compliance Assurance Branch (AE-17J)  
Air and Radiation Division  
U.S. Environmental Protection Agency, Region 5  
77 West Jackson Blvd.  
Chicago, Illinois 60604-3590

Reginald A. Pallesen  
Office of Regional Counsel (C-14J)  
U.S. Environmental Protection Agency, Region 5  
77 West Jackson Blvd.  
Chicago, Illinois 60604-3590

13. This civil penalty is not deductible for federal tax purposes.
14. If DaimlerChrysler does not pay timely the civil penalty, U.S. EPA may bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties and the United States' enforcement expenses for the collection action under Section 113(d)(5) of the Act, 42

U.S.C. § 7413(d)(5). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

15. Interest will accrue on any overdue amount from the date payment was due at a rate established under 26 U.S.C. § 6621(a)(2). DaimlerChrysler will pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. DaimlerChrysler will pay a quarterly nonpayment penalty each quarter during which the assessed penalty is overdue according to Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). This nonpayment penalty will be 10 percent of the aggregate amount of the outstanding penalties and nonpayment penalties accrued from the beginning of the quarter.

#### **General Provisions**

16. This CAFO settles U.S. EPA's claims for civil penalties for the violations alleged in the Complaint.
17. Nothing in this CAFO restricts U.S. EPA's authority to seek DaimlerChrysler's compliance with the Act and other applicable laws and regulations.

18. This CAFO does not affect DaimlerChrysler's responsibility to comply the Act and other applicable federal, state and local laws and regulations.
19. This CAFO constitutes an "enforcement response" as that term is used in "U.S. EPA's Clean Air Act Stationary Source Civil Penalty Policy" in determining DaimlerChrysler's "full compliance history" pursuant to Section 113(e) of the Act, 42 U.S.C. § 7413(e).
20. The terms of this CAFO are binding on DaimlerChrysler, and its successors and assigns.
21. Each person signing this Consent Agreement certifies that he or she has the authority to sign this Consent Agreement for the party whom he or she represents and to bind that party to its terms.
22. Each party shall bear its own costs, fees and disbursements in this action.
23. This CAFO constitutes the entire agreement between the parties.
24. This CAFO shall become effective on the date it is filed with the Regional Hearing Clerk.

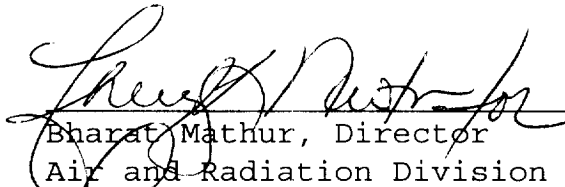
25. The parties to this agreement consent to the entry of this  
CAFO without further notice.

**U.S. Environmental Protection Agency,  
Complainant**

Date:

5/11/08

By:


  
Bharat Mathur, Director  
Air and Radiation Division  
U.S. Environmental Protection  
Agency, Region 5 (A-18J)

**DaimlerChrysler Corporation  
Respondent**

Date:

5-1-00

By:

  
Roy Attard, Supervisor  
DaimlerChrysler Corporation

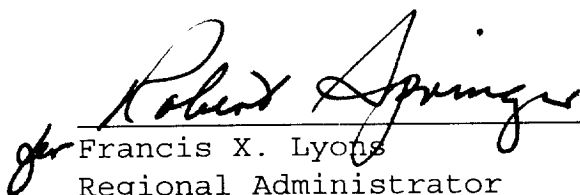
CONSENT AGREEMENT AND FINAL ORDER  
DaimlerChrysler Corporation  
Docket No. **CAA-5-** 2000-0 09

Final Order

It is ordered as agreed to by the parties and as stated in the Consent Agreement, effective immediately upon filing of this CAFO with the Regional Hearing Clerk.

Date:

May 12, 2000

  
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for Francis X. Lyons

Regional Administrator  
U.S. Environmental Protection  
Agency, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604-3590

CONSENT AGREEMENT AND FINAL ORDER  
DaimlerChrysler Corporation  
Docket No. CAA-5-2000-009

**CERTIFICATE OF SERVICE**

I, Loretta Shaffer, certify that I hand delivered the original and one copy of the Administrative Complaint, docket number A-5, 2000-009 to the Regional Hearing Clerk, Region 5, United States Environmental Protection Agency, hand delivered the original of the foregoing Consent Agreement and Final Order to the Regional Hearing Clerk, Region 5, United States Environmental Protection Agency, and that I mailed correct copies of the Administrative Complaint, copies of the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders and the Revocation, Termination or Suspension of Permits" at 64 Fed. Reg. 40138 (1999) (to be codified at 40 C.F.R. Part 22), and copies of the penalty policy described in the Administrative Complaint by certified mail, return receipt requested to:

Mr. Roy Attard, Supervisor,  
Advance Facilities Building Construction,  
Assembly Manufacturing Engineering  
DaimlerChrysler Corporation  
1000 Jeep Parkway  
Toledo, Ohio 43657

I also certify that a copy of the Order was sent by first class mail to:

Patrick M. Raher, Partner  
Hogan & Hartson, L.L.P.  
Columbia Square  
555 Thirteenth Street, NW  
Washington D.C. 20004-1109

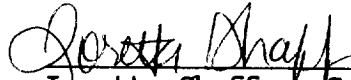
Karen Granata, Administrator  
City of Toledo  
Division of Environmental Services  
348 South Erie  
Toledo, Ohio 43602

and

Robert Hodanbosi, Chief  
Division of Air Pollution Control  
Ohio Environmental Protection Agency  
Lazarus Government Center  
P.O. Box 1049  
Columbus, Ohio 43216-1049

on the 16<sup>th</sup> Day of MAY, 2000

Z 199 026 582  
Certified Mail Number

  
Loretta Shaffer, Secretary  
ARD/AECAB/AECAS (MN/OH)